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 15 UNITED STATES OF AMERICA

16 UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

17 UNITED STATES OF AMERICA,

Case No.: 2:17-cv-02658

18 Plaintiff,

**COMPLAINT TO REVOKE
 NATURALIZATION**

19 vs.

20 ARACELI MARTINEZ,
 21 a/k/a Maria Araceli Ramos de Martinez,

22 Defendant.
 23
 24

25
 26 **I. PRELIMINARY STATEMENT**

27 1. The United States of America (“Plaintiff”) brings this civil action against
 28 Defendant Araceli Martinez (“Martinez”), a/k/a Maria Araceli Ramos de Martinez, to

1 revoke and set aside the order admitting Martinez to citizenship, and to cancel her
2 certificate of naturalization, on the ground that Martinez engaged in criminal activity
3 before she became a naturalized citizen of the United States, and she was charged with
4 and convicted of that criminal activity after her naturalization. Specifically, Martinez
5 both impersonated an immigration officer and falsely promised immigration benefit
6 assistance to aliens in exchange for thousands of dollars. Based on such conduct, she
7 pleaded guilty to multiple counts of Obtaining Money by False Pretense, in violation of
8 California Penal Code § 532(a).

9 **II. JURISDICTION, VENUE, & INTRADISTRICT ASSIGNMENT**

10 2. This is an action filed under 8 U.S.C. § 1451(a) to revoke and set aside the
11 decision admitting Martinez to United States Citizenship and to cancel Martinez's
12 Certificate of Naturalization No. 35052490.

13 3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1345 and
14 8 U.S.C. § 1451(a).

15 4. This Court has personal jurisdiction over Martinez because her last known
16 place of residence is in this District, pursuant to U.S. Const., art. 3, § 2, cl. 1.

17 5. Venue is proper in this District under 8 U.S.C. § 1451(a) and 28 U.S.C.
18 § 1391, because Martinez can be found in and resides in this District.

19 6. Martinez's last known residence is in Los Angeles County.

20 7. The affidavit of Maria F. Castro, Special Agent, United States Immigration
21 and Customs Enforcement ("ICE"), an agency within the Department of Homeland
22 Security, showing good cause for this action, as required by 8 U.S.C. § 1451(a), is
23 attached as Exhibit A.

24 **III. PARTIES**

25 8. Plaintiff is the United States of America, suing on behalf of itself.

26 9. Defendant Martinez was born in Mexico, and is a naturalized United States
27 citizen. Martinez's last known address of residence is in Bellflower, California, which is
28 within the jurisdiction and venue of this Court.

1 **IV. FACTUAL BACKGROUND**

2 A. Martinez’s Immigration Fraud Scheme & California State Criminal Conviction

3 10. Between June 2011 and March 2012, Martinez engaged in a fraudulent
4 scheme in which she held herself out as a government employee who could assist
5 undocumented immigrants with obtaining legal status in exchange for compensation.

6 11. Specifically, Martinez claimed to be and impersonated a United States
7 immigration officer. Martinez, however, was neither then employed by nor had she
8 previously worked for the United States government. *See* Felony Complaint & Plea
9 Colloquy, *State v. Martinez*, No. VA125171 (Cal. Sup. Ct.) (attached as Exhibit B).

10 12. As a result of her fraud, Martinez received between \$2,000 and \$5,000 from
11 each of her undocumented-immigrant victims despite failing to submit any paperwork to
12 U.S. Citizenship and Immigration Services (“USCIS”) on their behalf.

13 13. On or about June 4, 2012, the Los Angeles Sheriff’s Department arrested
14 Martinez based on her immigration fraud scheme.

15 14. On June 6, 2012, Martinez was indicted in the Superior Court of the State of
16 California for the County of Los Angeles (“California Superior Court”) on eleven counts
17 of Obtaining Money, Labor or Property by False Pretense under California Penal Code
18 § 532(a).

19 15. On September 12, 2012, Martinez pleaded guilty to and was convicted of
20 Counts 1-4 of the indictment, all violations of California Penal Code § 532(a).

21 16. Specifically, Martinez pleaded guilty to counts based on conduct that
22 occurred on August 1, 2011 (Counts 1-3) and August 20, 2011 (Count 4).

23 17. The California Superior Court sentenced Martinez to two years and eight
24 months’ imprisonment.

25 18. Following a restitution hearing on December 14, 2012, the California
26 Superior Court also ordered Martinez to make restitution to nine of her undocumented-
27 immigrant victims.

1 B. Martinez's Naturalization Application and Oath Ceremony

2 19. At the same time Martinez was engaged in her immigration fraud scheme,
3 she applied to naturalize and become a U.S. citizen, maintaining that she possessed the
4 requisite good moral character.

5 20. On or about July 8, 2011, Martinez filed a Form N-400, Application for
6 Naturalization ("Naturalization Application"). See Form N-400 Application for
7 Naturalization (attached as Exhibit C). In that application, Martinez checked "No" in
8 response to part 10, question 15, which asked: "Have you **ever** committed a crime or
9 offense for which you were **not** arrested?" *Id.* at 8 (emphasis in original).

10 21. On October 17, 2011, Denise Segovia, an officer with USCIS, orally
11 interviewed Martinez regarding her Naturalization Application to determine her
12 eligibility for naturalization.

13 22. At the beginning of the interview, Officer Segovia placed Martinez under
14 oath.

15 23. During the interview, Officer Segovia asked Martinez, consistent with part
16 10, question 15 of Martinez's Naturalization Application, whether she had ever
17 committed a crime or offense for which she was not arrested.

18 24. In response, Martinez confirmed her written response, stating that she had
19 never committed a crime or offense for which she was not arrested.

20 25. Martinez's testimony regarding her commission of a crime or offense was
21 false.

22 26. At her naturalization interview, Martinez did not disclose her recent conduct
23 defrauding undocumented immigrants.

24 27. In fact, at no point during the naturalization process did Martinez disclose to
25 USCIS her recent conduct defrauding undocumented immigrants, which was then
26 ongoing.

1 28. Martinez signed the Naturalization Application in the presence of Officer
2 Segovia and swore that the contents of her application were true and correct to the best of
3 her knowledge.

4 29. Based upon the information supplied by Martinez in her Naturalization
5 Application, and the sworn answers she gave during her October 17, 2011 naturalization
6 interview, USCIS approved the application.¹

7 30. Martinez received a Notice of Naturalization Oath Ceremony (“Oath
8 Notice”), which indicated her naturalization oath ceremony would take place on April 17,
9 2012. *See* Form N-445, Notice of Naturalization Oath Ceremony (attached as Exhibit D).

10 31. The following instructions appear on the Oath Notice:

11 In connection with your application for naturalization, please
12 answer each of the questions by checking “Yes” or “No.” You
13 must answer these questions the day you are to appear for your
14 citizenship oath ceremony. These questions refer to actions
15 since the date you were first interviewed on your Application
16 for Naturalization. The questions do not refer to anything that
17 happened before the interview.

18 After you have answered every question, sign your name, give
19 your address, and fill in the date and place of signing.

20 You must bring this completed questionnaire with you to the
21 oath ceremony, as well as the documents indication the front,
22 and give them to the employee of the U.S. Citizenship and
23 Immigration Services at the oath ceremony. You may be
24 questioned further on your answers at that time.

25 *See* Exhibit D at 2.

26 32. Martinez answered “No” in response to Question 3 on the back of the Oath
27 Notice, which asked: “AFTER the date you were first interviewed on your Application
28 for Naturalization Form N-400 . . . Have you knowingly committed any crime or offense,
for which you have not been arrested.” *See* Exhibit D at 2.

25 ¹ USCIS initially denied Martinez’s N-400 on November 30, 2011, for lack of good moral
26 character under 8 C.F.R. § 316.10. Martinez freely admitted during her naturalization interview that, on
27 March 5, 2004, she was detained at the Otay Mesa port-of-entry for alien smuggling, and, on June 13,
28 2006, she was arrested at the San Ysidro, California port-of-entry for alien smuggling. On March 16,
2012, USCIS conducted a review hearing of Martinez’s N-400 and determined Martinez overcame the
deficiencies described in the denial of her N-400. Plaintiff asserts that the initial denial of her
Naturalization Application on November 30, 2011, has no bearing on the present cause of action against
Martinez.

1 38. Congress has also explicitly precluded individuals who give false testimony
2 for the purpose of obtaining immigration benefits from being able to establish the good
3 moral character necessary to naturalize. 8 U.S.C. § 1101(f)(6).

4 39. Further, Congress created a “catch-all” provision, which states, “[t]he fact
5 that any person is not within any of the foregoing classes shall not preclude a finding that
6 for other reasons such person is or was not of good moral character.” 8 U.S.C. § 1101(f).

7 40. Thus, individuals who commit unlawful acts adversely reflecting upon their
8 moral character cannot meet the good moral character requirement, unless they prove that
9 extenuating circumstances exist. *See* 8 C.F.R § 316.10(b)(3)(iii); 8 U.S.C. § 1101(f).

10 41. “[A] conviction during the statutory period is not necessary for a finding that
11 an applicant lacks good moral character . . . it is enough that the offense was ‘committed’
12 during that time.” *United States v. Zhou*, 815 F.3d 639, 644 (9th Cir. 2016) (quoting
13 *United States v. Suarez*, 664 F.3d 655, 661 (7th Cir. 2011)).

14 42. Nevertheless, an individual who is convicted is collaterally estopped from
15 contesting all issues necessarily decided in the criminal matter. *See Zhou*, 815 F.3d at
16 644 (quoting *United States v. Jean-Baptiste*, 395 F.3d 1190, 1192 (11th Cir.), *cert.*
17 *denied*, 546 U.S. 852 (2005)).

18 **B. The Denaturalization Statute**

19 43. Recognizing that there are situations where an individual has naturalized
20 despite failing to comply with all congressionally imposed prerequisites to the acquisition
21 of citizenship or by concealing or misrepresenting facts that are material to the decision
22 on whether to grant his or her naturalization application, Congress enacted 8 U.S.C.
23 § 1451.

24 44. Under 8 U.S.C. § 1451(a), this Court must revoke an order of naturalization
25 and cancel the individual’s Certificate of Naturalization if his or her naturalization was
26 *either*:

- i. illegally procured, *or*
- ii. procured by concealment of a material fact or by willful misrepresentation.

45. Failure to comply with any of the congressionally imposed prerequisites to the acquisition of citizenship renders the citizenship “illegally procured.” *Fedorenko*, 449 U.S. at 506.

46. Where the government establishes that the defendant’s citizenship was procured illegally or by willful misrepresentation of material facts, “district courts lack equitable discretion to refrain from entering a judgment of denaturalization.” *Fedorenko*, 449 U.S. at 517.

VI. CAUSES OF ACTION

COUNT I

ILLEGAL PROCUREMENT OF NATURALIZATION LACK OF GOOD MORAL CHARACTER (CRIMES INVOLVING MORAL TURPITUDE)

47. The United States re-alleges and incorporates by reference the foregoing paragraphs.

48. As discussed above, to be eligible for naturalization an applicant must show that they have been a person of good moral character for the five-year statutory period before they file a Naturalization Application, and until the time they become a naturalized United States citizen. 8 U.S.C. § 1427(a)(3); 8 C.F.R. § 316.10(a)(1). Thus, Martinez was required to establish that she was a person of good moral character from July 8, 2006, until the date she became a U.S. citizen, on April 17, 2012 (the “statutory period”).

49. An applicant for naturalization is statutorily barred from showing that she is a person of good moral character if she commits a CIMT during the statutory period. 8 U.S.C. § 1101(f)(3); 8 C.F.R. § 316.10(b)(2)(i).

50. Martinez committed a CIMT by impersonating an immigration officer and by obtaining money in exchange for falsely promising legal status to undocumented immigrants.

1 51. As set forth above, Martinez defrauded undocumented immigrants, which
2 resulted in her conviction for Obtaining Money, Labor or Property by False Pretense in
3 violation of California Penal Code § 532(a).

4 52. On September 12, 2012, Martinez pleaded guilty to and was convicted of
5 that crime in California Superior Court.

6 53. Martinez committed that crime and the underlying fraud during the statutory
7 period.

8 54. Martinez's conviction under California Penal Code § 532(a), as a fraud
9 related offense, constitutes a CIMT. *See Jordan v. De George*, 341 U.S. 223, 229 (1951)
10 (“American courts have, without exception, included [fraud] crimes within the scope of
11 moral turpitude.”); *Planes v. Holder*, 652 F.3d 991, 997 (9th Cir. 2011) (re-affirming that
12 “fraud crimes are categorically crimes involving moral turpitude, simply by virtue of
13 their fraudulent nature”).

14 55. Because Martinez committed a CIMT during the statutory period, of which
15 she was later convicted, Martinez was barred under 8 U.S.C. § 1101(f)(3) from showing
16 that she had the good moral character necessary to become a naturalized United States
17 citizen.

18 56. Because Martinez committed a CIMT and was therefore not a person of
19 good moral character, she was ineligible for naturalization under 8 U.S.C. § 1427(a)(3).

20 57. Because she was ineligible to naturalize, Martinez procured her citizenship
21 illegally, and this Court must revoke her citizenship, as provided for by 8 U.S.C.
22 § 1451(a).

23 **COUNT II**

24 **ILLEGAL PROCUREMENT OF NATURALIZATION**
25 **LACK OF GOOD MORAL CHARACTER**
(UNLAWFUL ACTS)

26 58. The United States re-alleges and incorporates by reference the foregoing
27 paragraphs.

1 59. As noted above, to be eligible for naturalization an applicant must show that
2 she has been a person of good moral character for the five-year statutory period before
3 she files her Naturalization Application, and until the time she becomes a naturalized
4 United States citizen. 8 U.S.C. § 1427(a)(3).

5 60. As set forth above, Martinez defrauded undocumented immigrants, which
6 resulted in her conviction for Obtaining Money, Labor or Property by False Pretense in
7 violation of California Penal Code § 532(a).

8 61. On September 12, 2012, Martinez pleaded guilty to and was convicted of
9 that crime in California Superior Court.

10 62. Also as set forth above, Martinez conducted her fraud and obtained money
11 from undocumented immigration by impersonating a federal employee, in violation of 18
12 U.S.C. § 912.

13 63. Specifically, on or about August 1, 2011, and August 20, 2011, Martinez
14 falsely assumed and pretended to be an officer or employee of the United States acting
15 under the authority thereof, that is an immigration officer, and in such assumed and
16 pretended character demanded and falsely obtained at least \$20,000.00, in violation of 18
17 U.S.C. § 912.

18 64. Martinez committed those crimes and the underlying fraud during the
19 statutory period.

20 65. Martinez has not established, and cannot establish, extenuating
21 circumstances with regard to fraudulent conduct underlying her conviction under
22 California Penal Code § 532(a) and her impersonation of a federal employee or officer,
23 and she therefore cannot avoid the regulatory bar on establishing good moral character
24 found in 8 C.F.R. § 316.10(b)(3)(iii).

25 66. The regulatory “unlawful acts” bar on establishing good moral character
26 found in 8 C.F.R. § 316.10(b)(3)(iii) applies to Martinez regardless of whether the
27 statutory CIMT bar (set forth in Count I) also applies to her.
28

1 67. Martinez's fraudulent conduct precluded her from establishing good moral
2 character, rendering her ineligible for naturalization at the time she took the oath of
3 allegiance. *See* 8 C.F.R. § 316.10(b)(3)(iii).

4 68. Thus, due to her commission of unlawful acts during the statutory period,
5 Martinez illegally procured her naturalization, and this Court must revoke her citizenship,
6 as provided for by 8 U.S.C. § 1451(a).

7 **COUNT III**

8 **ILLEGAL PROCUREMENT OF NATURALIZATION**
9 **LACK OF GOOD MORAL CHARACTER**
10 **(FALSE TESTIMONY)**

11 69. The United States re-alleges and incorporates by reference the foregoing
12 paragraphs.

13 70. As discussed above, to be eligible for naturalization an applicant must show
14 that she has been a person of good moral character for the five-year statutory period
15 before she files her Naturalization Application, and until the time she becomes a
16 naturalized United States citizen. 8 U.S.C. § 1427(a)(3).

17 71. An applicant for naturalization is statutorily barred from showing that she is
18 a person of good moral character if, during the statutory period, she has given false
19 testimony, under oath, for the purpose of obtaining an immigration benefit, including
20 naturalization. 8 U.S.C. § 1101(f)(6).

21 72. As set forth above, Martinez provided false testimony for the purpose of
22 obtaining an immigration benefit when she swore, under oath, during her October 17,
23 2011 naturalization interview, that her answer to part 10, question 15 was true to the best
24 of her knowledge, and that she had never committed a crime or offense for which she was
25 not arrested.

26 73. Because she provided false testimony under oath for the purpose of
27 obtaining her naturalization, Martinez was barred under 8 U.S.C. § 1101(f)(6) from
28 showing that she had the good moral character necessary to become a naturalized United
States citizen.

1 74. Because Martinez was not a person of good moral character, she was
2 ineligible for naturalization under 8 U.S.C. § 1427(a)(3).

3 75. Because she was ineligible to naturalize, Martinez procured her citizenship
4 illegally, and this Court must revoke her citizenship, as provided for by 8 U.S.C.
5 § 1451(a).

6 **COUNT IV**

7 **PROCUREMENT OF UNITED STATES CITIZENSHIP BY**
8 **CONCEALMENT OF A MATERIAL FACT OR**
9 **WILLFUL MISREPRESENTATION**

10 76. The United States re-alleges and incorporates by reference the foregoing
11 paragraphs.

12 77. Under 8 U.S.C. § 1451(a), this Court must revoke a naturalized person's
13 citizenship and cancel her Certificate of Naturalization if that person procured her
14 naturalization by concealment of a material fact or by willful misrepresentation.

15 78. As set forth above, throughout the naturalization process, Martinez willfully
16 misrepresented and concealed her impersonation of a U.S. immigration officer and
17 defrauding of undocumented immigrants, for which she later pleaded guilty to and was
18 convicted of knowingly Obtaining Money, Labor or Property by False Pretense in
19 violation of California Penal Code § 532(a).

20 79. Specifically, Martinez represented on her Naturalization Application, during
21 her naturalization interview, and on her Oath Notice of Naturalization Oath Ceremony
22 that she had never knowingly committed any crime or offense for which she had not been
23 arrested, despite knowing that such representations were false and misleading.
24 Accordingly, Martinez made these representations willfully.

25 80. Martinez's misrepresentations were material to her naturalization because
26 the disclosure of her fraudulent scheme would have had a natural tendency to influence
27 USCIS's decision whether to approve Martinez's Naturalization Application.
28

1 81. Martinez thus procured her naturalization by willful misrepresentation and
2 concealment of material facts. This Court must therefore revoke her citizenship pursuant
3 to the requirements of 8 U.S.C. § 1451(a).

4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, Plaintiff, the United States of America, respectfully requests:

- 6 1. A declaration that Martinez procured her citizenship illegally;
- 7 2. A declaration that Martinez procured her citizenship by concealment of
8 material facts and by willful misrepresentation;
- 9 3. Judgment revoking and setting aside the order admitting Martinez to
10 citizenship and canceling Certificate of Naturalization No. 35052490, effective as of the
11 original date of the order and certificate, April 17, 2012.
- 12 4. Judgment forever restraining and enjoining Martinez from claiming any
13 rights, privileges, benefits, or advantages under any document which evidences United
14 States citizenship obtained as a result of her April 17, 2012 naturalization;
- 15 5. Judgment requiring Martinez to immediately surrender and deliver her
16 Certificate of Naturalization, and any copies thereof in her possession or control (and to
17 make good faith efforts to recover and then surrender any copies thereof that he knows
18 are in the possession or control of others) to the Attorney General, or his representative,
19 including undersigned counsel;
- 20 6. Judgment requiring Martinez to immediately surrender and deliver any other
21 indicia of United States citizenship, including, but not limited to, United States passports,
22 voter registration cards, and other voting documents, and any copies thereof in her
23 possession or control (and to make good faith efforts to recover and then surrender any
24 copies thereof that she knows are in the possession of others) to the Attorney General, or
25 his representative, including undersigned counsel; and
- 26 7. Judgment granting the United States such other relief as may be lawful and
27 proper in this case.

28

1 DATED: April 7, 2017

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Respectfully submitted,

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28 ² This complaint was prepared with the substantial assistance of Ruth Ann Mueller, a legal intern from The Catholic University of America, Columbus School of Law.